

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LE-VEL BRANDS LLC,

Plaintiff,

v.

SHYLO ECKSTROM,

Defendant.

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CASE NO. 3:18-cv-01352-S

AMENDED UNOPPOSED MOTION TO EXTEND TIME

Plaintiff, Le-Vel Brands, LLC (“Le-Vel”) hereby files its Amended Unopposed Motion to Extend Time (the “Motion”) and, in support thereof, respectfully represents as follows:

1. Defendant’s counsel expressed that she is unopposed to the relief sought herein after Plaintiff filed its Motion to Extend Time. Le-Vel files this Amended Unopposed Motion to Extend Time after its Motion to Extend time to amend the certificate of conference to “unopposed.”
2. Trial of this matter is set on the court’s docket for October 7, 2019.
3. Discovery is still ongoing. The deadline for Le-Vel to designate experts is currently May 8, 2019. Defendant Shylo Eckstrom’s (“Eckstrom”) deadline for designation of rebuttal experts is June 10, 2019.
4. FEDERAL RULE OF CIVIL PROCEDURE 6(b)(1)(A) permits the Court to grant an extension of time for “good cause,” before the time for the act expires. Good cause is a nonrigorous standard that courts construe broadly. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). “District courts should normally grant extension requests, made before the deadline, in

the absence of bad faith by the requesting party or prejudice to another party.” *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016).

5. Here, Le-Vel has good cause to request an extension of its deadline to designate experts. While Le-Vel has sufficient evidence to substantiate its claims against Eckstrom, the extent of Eckstrom’s wrongful conduct and the resulting injury remains undiscovered. On April 29, 2019, Le-Vel issued its first 12 subpoenas to third-party witnesses to appear for deposition. Since then, Le-Vel has issued five more subpoenas to third-party witnesses. Several of these witnesses evaded service for weeks, and Le-Vel has worked to accommodate the various schedules of counsel and witnesses. As of this filing, Le-Vel’s first deposition of third-party witnesses takes place this Wednesday, May 8, 2019. It is necessary for Le-Vel to depose these third-party witnesses not only to fully explore the extent of Eckstrom’s activity, but also to determine what experts it needs to prove up its claims and damages. As these depositions have not even begun, Le-Vel cannot anticipate the deponents’ testimony and needs the opportunity to obtain more evidence before designating its experts.

6. Due to the above ongoing discovery issues, Le-Vel requests an extension of its expert designation deadline until **June 8, 2019** and an extension of Defendant’s rebuttal expert designation until **July 10, 2019**.

7. This Motion is made in good faith and filed not for the purposes of delay, but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Motion to Extend Time be granted.

Respectfully submitted,

SHAPIRO BIEGING BARBER OTTESON LLP

By: /s/ Kevin T. Schutte

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ATTORNEYS FOR LE-VEL BRANDS, LLC

CERTIFICATE OF CONFERENCE

Plaintiff's counsel attempted to conference with Defendant's counsel by email on May 5th, May 6th, and today, May 7th, regarding the issues presented in this Motion. After the filing of Plaintiff's Motion to Extend Time, Defendant's counsel emailed Plaintiff's counsel that she is unopposed to the relief sought herein.

/s/ Kevin T. Schutte

Kevin T. Schutte

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of May, 2019, I served a copy of the foregoing on all counsel of record in accordance with the Federal Rules of Civil Procedure.

/s/ Kevin T. Schutte

Kevin T. Schutte